

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5554 of 1989

and

SPECIAL CIVIL APPLICATION NO.5555 OF 1989

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA and
MR.JUSTICE S.D.PANDIT

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GANDA VAJSUR
ZONDA VANJDUR

Versus

DEPUTY COLLECTOR & LAND ACQUISITION OFFICER

Appearance:

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Mr.Kamal Mehta, AGP with Mr.M.R.Anand, GP for Respondent No. 1, 2

CORAM : MR.JUSTICE N.J.PANDYA and
MR.JUSTICE S.D.PANDIT

Date of decision: 10/09/96

ORAL JUDGEMENT (N.J.Pandya,J.)

Both the matters relate to the refusal on the part of the Collector to make a reference under Sec.18 of the Land Acquisition Act. They are therefore, dealt with together.

2. As stated in the petitions, initially Reference was rejected, according to the petitioners, because the request was made after the expiry of limitation prescribed for the purpose. Thereafter, by way of amendment, further ground was sought to be raised that the consent alleged by the Collector as to the acquisition is not legal consent.

3. On either count, in our opinion, the order of the Collector cannot be faulted with. If the petitioners have not approached the Collector in time, the Collector not being a Civil Court, he has no power to condone the delay and provisions of Sec.5 of the Limitation Act would not apply. Even if recourse has to be had to the general underlying principle of said Sec.5, even then, the Collector having no power, could not do so.

4. So far as the consent part is concerned, except for making an averment by way of amendment in para 6(A) of the petition, there is no material shown in this regard. No doubt, in the petitions, judgment of the learned single Judge on the point of limitation has been quoted. However, there being a Supreme Court Judgment on the point, reported in 35(1) GLR 296, the position is now settled and as per the said judgment, the Collector has no power to condone the delay.

5. In either event, we do not find any substance in the matters. Hence, the petitions are dismissed with no orders as to costs. Rule is discharged.
